

**REMARKS**

This Amendment is responsive to the Office Action mailed October 24, 2008. After its entry, claims 1-4, 6-15, and 17-21 are currently pending in this application and subject to examination. Claims 5 and 16 are cancelled. Claim 1 is amended to incorporate some of the limitations of cancelled claims 5 and 16. Claims 6 and 17 are amended to depend from claim 1. New claims 19, 20, and 21 are added. Support for new claims 19, 20, and 21 are found at page 2, lines 1-3 and page 3, line 5 to page 4, line 14 of the present specification and in claims 1, 5, and 16 as originally filed. No new matter is added

Reconsideration of the application as amended is respectfully requested in view of the following remarks.

**Rejection Under 35 U.S.C. § 103(a)**

Claims 1-18 stand rejected as obvious over U.S. Patent No. 5,468,803 to Takahashi et al. (Takahashi) in view of U.S. Patent No. 5,783,273 to Yamamoto et al. (Yamamoto) or U.S. Patent No. 5,321,030 to Hirose et al. (Hirose). This rejection is moot as to claims 5 and 16, which are cancelled. Applicants respectfully traverse this rejection as it pertains to claims 1-4, 6-15, 17, and 18, as amended, and new claims 19 and 20.

Claim 1, as amended, now requires that the recited COC contain, based on its total weight of the COC, from 0.1 to 100.0 % by weight of polymerized units which derive from at least one polycyclic olefin of the formulae (I), (II), (II'), (III), (IV), (V), or (VI) **and** from 0.1 to 99.9 % by weight, based on the total weight of the COC, of polymerized units which derive from one or more acyclic olefins of formula (VII).

In contrast, the combined disclosures of Takahashi and Yamamoto or Hirose fail to teach or suggest the COCs of amended claim 1. The only copolymers specifically suggested by Takahashi are those that would result from the copolymerization of norbornene group monomers with other polymerizable *cycloolefins* and like monomers. Takahashi at column 3, lines 14-22. Otherwise, Takahashi only broadly discloses that its polymers may be formed by addition

polymerization of norbornene group monomers with olefins. Takahashi at column 2, lines 47-48. Takahashi is silent regarding copolymers of norbornene group monomers with acyclic olefins of formula (VII). Furthermore, while Yamamoto and Hirose teach the use of copolymers of ethylene and certain cycloolefins, these references fail to provide the skilled artisan with any motivation to prepare copolymers from ethylene and the norbornene group monomers of Takahashi, since neither Yamamoto nor Hirose disclose any particular purpose for or benefit from using ethylene as a comonomer in its copolymers.

As such, the combined disclosures of Takahashi and Yamamoto or Hirose fail to render amended claim 1 obvious. Furthermore, since claims 2-4, 6-15, and 17-20 all depend directly or indirectly from amended claim 1, these claims are likewise deemed non-obvious over the combined disclosures of the cited references. Applicants respectfully request withdrawal of this rejection.

#### **New Claim 21**

New claim 21 is non-obvious over the combined disclosures of Takahashi and Yamamoto or Hirose since the combined disclosures of these references fail to teach or suggest all of its limitations. New claim 21 recites:

“[A] process for producing a packaging composed of a thermoformable film composed of thermoplastic polyolefins, via thermoforming, where, after thermoforming, the film has an improved heat distortion temperature and a high water-vapor barrier, *which comprises using, in the thermoformable film, an amount in the range of from 5 to 80 % by weight, based on the total weight of polyolefins, of COC* with a glass transition temperature  $T_g$  in the range from 65 to 200°C, measured to DIN EN ISO 11357-1 with the aid of a DSC at a heating rate of 10 K/min, and which comprises producing therefrom, via thermoforming at a temperature in the range from 70 to 170°C a

packaging whose heat distortion temperature is in the range from  
60 to 200°C.”

(emphasis added) As such, polyolefins other than the recited COC are present in the thermoformable film in an amount in the range of from 20 to 95 % by weight, based on the total weight of the polyolefins. In contrast, the compositions of Takahashi contain no greater than 10 % by weight of polymers (*i.e.*, compounding ingredient) other than its norbornene group-based polymers, as acknowledged by the Examiner. Takahashi at column 7, lines 50-57. Furthermore, Takahashi teaches away from adding compounding ingredient to its norbornene group-based polymers in amounts greater than 10 % by weight, since the resulting composition tends to have low transparency, glass transition temperature, and heat resistance. Takahashi at column 7, lines 57-61. To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. See MPEP § 2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). The combined disclosures of Takahashi and Yamamoto or Hirose fail to teach or suggest all of the limitations of new claim 21 and, thus, fail to render it obvious. As such, Applicants respectfully request allowance of new claim 21.

In view of the foregoing amendment and remarks, Applicants believe the pending application is in condition for allowance.

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Applicants believe no fee is due with this amendment. However, the Director is hereby authorized to charge any fees due or outstanding, including any extension fees, or credit any overpayment, to Deposit Account No. 03-2775, under Order No. 13975-00002-US, from which the undersigned is authorized to draw.

Dated: January 26, 2009

Respectfully submitted,

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